

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BRIAN BURKE,

Plaintiff,

ANSWER

-against-

Case No. 12 CIV 4280

CULLEN & TROIA, P.C. and
KENMORE ASSOCIATES, L.P.,

Defendants.

Defendant KENMORE ASSOCIATES, L.P. (hereinafter "KENMORE") by their attorney Wayne L. Desimone, Esq., as and for their Answer respectfully set forth as follows:

1. Denies knowledge or information thereof sufficient to form a belief as to the allegations in the paragraphs of the Complaint numbered "1", "2", "3", "4", "5", "6", "9", "10", "13", "14", "15", "16", "17", "18", "21", "23", "24", "26", "27", "28" and "29".

2. Denies each and every allegation in the paragraphs of the Complaint numbered "7", "8", "11", "12", "19", "20", "22", "25", "30" and "31".

ANSWERING COUNT 1

3. Denies knowledge or information thereof sufficient to form a belief as to the allegations in the paragraph of the Complaint numbered "33".

ANSWERING COUNT II

4. Denies knowledge or information thereof sufficient to form a belief as to the allegation in the paragraph of the Complaint numbered "35".

ANSWERING COUNT III

5. Denies knowledge or information thereof sufficient to form a belief as to the allegations in the paragraph of the Complaint numbered "37".

ANSWERING COUNT IV

6. Denies knowledge or information thereof sufficient to form a belief as to the allegations in the paragraph of the Complaint numbered "39".

ANSWERING COUNT V

7. Denies each and every allegation in the paragraphs of the Complaint numbered "41".

ANSWERING COUNT VI

8. Denies knowledge and information thereof sufficient to form a belief as to the allegations in the paragraph of the Complaint numbered "43".

ANSWERING COUNT VII

9. Denies knowledge or information thereof sufficient to form a belief as to the allegations in the paragraphs of the Complaint numbered "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55" and "56".

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

10. The Complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

11. The Court lacks jurisdiction over the person of defendant Kenmore as a result of insufficient and improper service of process.

AS AND FOR A CROSSCLAIM AGAINST DEFENDANT CULLEN & TROIA

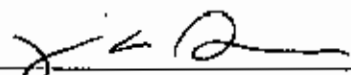
12. In the event that the plaintiff herein suffered any loss or damage, which is expressly denied, such loss or damage was a direct and proximate result of the acts or omissions of defendant Cullen & Troia, P.C., without any conduct on the part of defendant Kenmore contributing thereto.

13. In the event that defendant Kenmore is found to be liable to the plaintiff herein, then said defendant is entitled to contribution from defendant Cullen & Troia, P.C. and is entitled to indemnification from said defendant.

WHEREFORE, defendant Kenmore demands judgment as follows:

- (a) dismissing the instant action in its entirety;
- (b) judgment over and against defendant Cullen & Troia, P.C. for the amount of any sums awarded to the plaintiff over and against Kenmore's proportionate share as determined by the apportionment of responsibility adjudged herein;
- (c) the costs and disbursements of this action together with interest thereon and an award of reasonable attorneys fees; and
- (d) such other and further relief as to this Court seems just and proper.

Dated: New York, New York
July 5, 2012



WAYNE L. DESIMONE (WLD 0243)
Attorney for Defendant Kenmore
45 West 34th Street, Suite 900
New York, New York 10001
(212) 867-6233
WL.Desimone@aol.com

TO: DENNIS R. KURZ
Weisberg & Meyers, LLC
Attorneys for Plaintiff
5025 N. Central Avenue #602
Phoenix, AZ 85012
(888) 595-9111
dkurz@attorneysforconsumers.com

KEIDEL, WELDON & CUNNINGHAM, LLP
Attorneys for Defendant Cullen & Troia, P.C.
925 Westchester Avenue, Suite 400
White Plains, New York 10604
(914) 948-7000
rgrande@kwellp.com